

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEAL OF DIANA ) APPEAL NO. 07-A-2045  
HEFT from the decision of the Board of Equalization ) FINAL DECISION  
of Bonneville County for tax year 2007. ) AND ORDER

**RESIDENTIAL PROPERTY APPEAL**

THIS MATTER came on for hearing November 5, 2007, in Idaho Falls, Idaho before Board Member David Kinghorn. Board Member Lyle R. Cobbs participated in this decision. Appellant Diana Heft appeared at hearing. Assessor Blake Mueller and Deputy Assessor Janet Trujillo appeared for Respondent Bonneville County. This appeal is taken from a decision of the Bonneville County Board of Equalization (BOE) modifying the protest of the valuation for taxing purposes of property described as Parcel No. RPB99900002480.

**The issue on appeal is the market value of a residential property.**

**The decision of the Bonneville County Board of Equalization is affirmed.**

FINDINGS OF FACT

The assessed land value is \$15,600, and the improvements' valuation is \$92,981, totaling \$108,581. At hearing, Appellant requested the total value be reduced to \$100,000.

The subject property is a 1,224 square foot twin home with a 440 square foot garage, located in the City of Ammon. Appellant purchased subject in September 2005 for roughly \$109,000. Respondent described subject as a double lot. Appellant contended the property was seven (7) feet short of being a double lot. Subject's original total 2007 assessment was \$118,270, which was reduced to \$108,581 at BOE.

Appellant described subject as a basic or plain residence with a modest interior and no extra amenities. Appellant's primary argument centered on value detriments caused by the commercial influence of a nearby Walmart store. Noted was a six foot tall cinder block wall

between subject and the store intended to dampen the noise caused by the busy freight dock. Appellant stated the wall actually amplified the noise. Also of concern was the increased truck traffic through subject's neighborhood, as well as, the bright parking lot lights that shine in the backyard of subject and neighboring properties. Appellant contended the negative impact on subject's value was not adequately reflected in the assessment.

According to Appellant, no sales had recently occurred in the immediate area, so referenced several single-family residences listed for sale. One property was on the market in excess of one year without sale. The original asking price was \$72 per square foot, which was dropped to \$66 per square foot. The residence was 2,568 square feet in size. The other listings involved 3,100 and 2,200 square foot residences, with asking prices of \$74 and \$85 per square foot, respectively. Subject was assessed at \$88.71 per square foot.

Respondent noted the Walmart store was already in existence at the time Appellant purchased subject. As such, the negative commercial influence was already factored into the purchase price. In 2005, the bank used to finance subject's purchase ordered an independent fee appraisal. The indicated value using the sales comparison approach was \$112,300. Appellant argued the sales used in the appraisal were not similar because they were not impacted by nearby commercial activities. Respondent pointed out the fee appraiser adjusted subject to account for the commercial influence.

Respondent also challenged Appellant's use of information concerning single-family residences. Because subject is a twin home it was argued single-family dwellings were not proper to use for comparison purposes. Also noted was most of the residences were much larger than subject and included basements. Of particular concern were Appellant's price per square foot calculations. Respondent stated basement spaces are typically valued lower per

square foot than living space on the main floor. Appellant valued basement space at the same rate as above-grade living area. In all, the prices per square foot reported by Appellant were questioned.

Respondent then presented information concerning four (4) twin home sales in subject's area. The residences ranged in size between 1,049 and 1,150 square feet and sold between \$126,700 and \$131,900. Also referenced were a number of properties that had re-sold in recent years. The increase in resale value indicated to Respondent a fairly strong market in subject's area. Respondent acknowledged it was difficult to find properties exactly similar to subject, however maintained subject was fairly valued with consideration given for the negative commercial influence.

#### CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

For the purposes of taxation, Idaho assessed property according to a market value standard, as defined in Idaho Code § 63-201(10):

“Market value” means the amount of United States dollars or equivalent for which, in all probability, a property would exchange hands between a willing seller, under no compulsion to sell, and an informed, capable buyer, with a reasonable time allowed to consummate the sale, substantiated by a reasonable down or full cash payment.

The Idaho Supreme Court has recognized the following methods for determining market value:

[T]here are three primary methods of determining market value: the cost approach, in which the value as determined by new cost or market comparison is estimated and reduced by accrued depreciation; the income approach, applicable to "income producing property" in which a capitalization rate is determined from market conditions and applied to net income from the property to determine appraised value; and the market data (comparison method) approach, in which value of the assessed property is ascertained by looking to current open market sales of similar property. *Merris v. Ada County*, 100 Idaho 59, 63, 593 P.2d 394, 398 (1979).

Appellant detailed the negative attributes resulting from subject's location near a busy commercial enterprise. Also presented was information concerning three (3) single-family dwellings that had been listed for sale in subject's immediate neighborhood. The residences were between 2,200 and 3,100 square feet with asking prices between \$72 and \$85 per square foot.

As noted by Respondent, using single-family residences for comparison with a twin home is not proper. Also, the residences were all notably larger than subject. Economies of scale naturally suggest a larger residence has less value per square foot than a smaller one. Most importantly, however, is that listings are not considered reliable market value evidence.

Respondent presented four (4) sales of twin homes in subject's general area. The sale prices were between \$126,700 and \$138,968 for dwellings between 1,049 and 1,150 square feet in size. Appellant contended the properties were not similar to subject because they were not affected by the operations of the nearby Walmart store.

We agree, subject's value is negatively affected by its close proximity to a busy commercial operation. Respondent testified this factor was taken into account in subject's assessment. Because subject's value is much lower than any of the sales, which were smaller in size, we would have to agree that consideration for subject's detriments were factored into the

assessment.

The Assessor's valuations are presumed correct and the burden is on Appellant to prove by a preponderance of the evidence, the assessment is erroneous. *Board of County Comm'rs of Ada County v. Sears, Roebuck & Co.*, 74 Idaho 39, 46-47, 256 P.2d 526, 530 (1953). That burden was not met in this case. We understand Appellant's position and agree the close proximity to a busy Walmart store negatively influences subject's value, however, the County seemingly factored this into the assessment. We believe subject was fairly and reasonably assessed so will affirm the decision of the Bonneville County Board of Equalization.

#### FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Bonneville County Board of Equalization concerning the subject parcel be, and the same hereby is, affirmed.

MAILED April 30, 2008